



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street
Dallas, TX 75242

501.03-00

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **201106016**
Release Date: 2/11/2011

Date: November 15, 2010

Person to Contact:
Badge Number:
Contact Telephone Number:
Contact Address:
Employer Identification Number:

CERTIFIED MAIL

Dear :

This is a final notice of adverse determination as to your exempt status under section 501(a) of the Internal Revenue Code (IRC). It is determined that you do not qualify as an organization described in IRC §501(c)(3) effective January 1, 20XX. Our adverse determination is made for the following reasons:

You have failed to produce documents to establish that you are organized and operated exclusively for exempt purposes within the meaning of IRC §501(c)(3) and that no part of your earnings inures to the benefit of private shareholders or individuals. Also, you have failed to keep adequate books and records as required by IRC §§6001 and 6033 and the regulations thereunder.

In our letter dated February 25, 20XX, we requested information necessary to conduct an examination of your Form 990 for the year ended December 31, 20XX. We have not received the requested information.

Section 1.6033-2(h)(2) of the Income tax Regulations provides, in part, that every organization which is exempt from tax, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status.

Since you have not provided the requested information, we hereby revoke your organization's exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code, effective January 1, 20XX.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

Since your exempt status has been revoked, you are required to file Form 1120, U.S. Corporation Income Tax Return, for all years beginning on or after January 1, 20XX.

Income tax returns for subsequent years are to be filed with the appropriate Service Center identified in the instructions for those returns.

It is further determined that your failure to file a written appeal may constitute a failure to exhaust your administrative remedies. If you decide to contest this determination under the declaratory judgment provisions of IRC §7428, however, an appropriate petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date that this determination was mailed to you. Contact the clerk of the appropriate court for rules for initiating suits for declaratory judgment. To secure a petition form for the United States Tax Court, write to the following address:

Please understand that filing a petition for a declaratory judgment under IRC §7428 will not delay the processing of subsequent income tax returns and assessment of any taxes due.

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures such as the formal appeals process. The Taxpayer Advocate is not able to reverse legally correct tax determinations, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. If you want Taxpayer Advocate assistance, please contact the Taxpayer Advocate by calling _____ or contact the Taxpayer Advocate for the IRS office that issued this adverse determination at the address shown below:

This letter should be kept within your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE EO Examinations

4330 Watt Ave SA6209 EO/MV

Sacramento, CA 95821

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

LEGEND

ORG = Organization name

XX = Date Address = address

ORG
ADDRESS

Date January 4, 2010

Taxpayer Identification Number:

Form:

Tax Year(s) Ended

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, Consent to Proposed Action - Section 7428. If you have already given us a signed Form 6018, you need not repeat this process. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals Officer will review your case. The Appeals Office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, The Examination Process, and Publication 892, Exempt Organization Appeal Procedures for Unagreed Issues, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free _____ and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Acting Director, EO

Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination
Form 6018

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1 of 4
Name of Taxpayer ORG	Tax identification number EIN	Year/Period Ended 20XX12

LEGEND

ORG = Organization name XX = Date City = city State = state
 President = president

Issue:

Should the tax-exempt status of ORG, be revoked for failure to operate for charitable and/or educational purposes as set forth in Internal Revenue Code Section 501(c)(3)?

Facts:

ORG was incorporated on March 3, 20XX in the State of State. ORG was recognized as exempt under IRC 501(c)(3) in May 20XX. It's stated specific purpose was to meet the financial assistance needs of Social Security recipients in the City and City community of State with plans to expand to the City area. ORG works directly with the Social Security Administration (SSA) to ensure that social security recipients that have a long history of poor money management receive help. ORG served as a Representative Payee to ensure that SSA recipient's food, clothing, and shelter needs are met on an ongoing basis.

On August 11, 20XX The State of State filed a State tax lien on the organization for \$.

ORG was examined by the Social Security Administration (SSA) for the 20XX year. The reviewer found numerous discrepancies including poor record keeping, and misappropriation of funds.

On May 7, 20XX the Social Security Administration sent ORG a letter demanding bank statements and repayment of funds or they would be referred for prosecution.

The organization was referred by the SSA to the City, State, U.S. Attorneys Office, who declined Federal prosecution.

On February 26, 20XX The Social Security Administration suspended ORG as Representative Payee (for actions done in 20XX) for all SSA clients effective immediately.

On April 1, 20XX ORG filed for corporate dissolution with the State of State.

On May 6, 20XX at the request of the service for the organization to submit delinquent Form 990's and additional information the org submitted a Form 990 Schedule A, with all zero's and no signature.

After numerous attempts by the service to secure the information requested, ORG refuses to comply.

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 2 of 4
Name of Taxpayer ORG	Tax identification number EIN	Year/Period Ended 20XX12

Law:

Internal Revenue Code section 501(c)(3) includes corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Regulations section 1.501(c)(3)-1(c)(1) states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulations section 1.6033-2(i)(2) states that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into its exempt status and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

Rev. Rul. 59-95, 1959-1 C.B. 627

An organization previously held exempt from Federal income tax was requested to produce a financial statement as of the end of the year and a statement of its operations during such year. However, its records were so incomplete that it was unable to furnish such statements. Section 6033 of the Internal Revenue Code of 1954 provides that every organization, except as provided therein, exempt from taxation under section 501(a) of the Code shall file an annual return, stating specifically the items of gross income, receipts, and disbursements, and shall keep such records, render under oath such statements, make such other returns and comply with such rules and regulations as the Secretary of the Treasury or his delegate may from time to time prescribe. Held, failure or inability to file the required information return or otherwise to comply with the provision of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of an exempt

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 3 of 4
Name of Taxpayer ORG	Tax identification number EIN	Year/Period Ended 20XX12

status.

GCM 34631 (October 4, 1971)

The GCM states that it is insufficient to consider only the quantitative basis for determining substantiality. The nature of the acts is as important as the ratio that illegal activities bear to activities that further exempt purposes. A great many violations of local pollution regulations relating to a sizable percentage of an organization's operations would be required to disqualify it from 501(c)(3) exemption. Yet, if only .01% of its activities were directed to robbing banks, it would not be exempt. This is an example of an act having a substantial non-exempt quality, while lacking substantiality of amount. A very little planned violence or terrorism would constitute 'substantial' activities not in furtherance of exempt purposes.

GCM 37111 (May 4, 1977)

The Internal Revenue Service is not in a position to make determinations as to the illegality of an act under a provision of law other than the Internal Revenue Code. The Constitution of the United States provides for separation of powers, and a determination of illegality in such cases is within the province of the judiciary. From an administrative standpoint alone, such a task would be impossible for the Internal Revenue Service to undertake. From a legal standpoint, moreover, the onus which attaches to a determination of illegality is such that it would be improper to delegate such a determination to an administrative body without the procedural and substantive due process protection provided through the judicial process.

Government's Position:

In order to qualify for and maintain exemption from income tax per Internal Revenue Code section 501(c)(3), it must be demonstrated that the organization is operated for any of the exempt purposes set forth in the aforementioned section. As documented in the "facts" section of this report, the Organization could/would not provide any of the books and records as requested by the Internal Revenue Service. Thus, an audit of the organization's records could not be conducted by the agent. The examination conducted by the Social Security Administration found discrepancies in the record keeping procedures and the use of funds. The organization also refused to cooperate with the SSA examination by providing the requested records. As a result, the organization failed to demonstrate to the Secretary that it is operated for any if the exempt purposes as described in Internal Revenue Code section 501(c)(3).

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 4 of 4
Name of Taxpayer ORG	Tax identification number EIN	Year/Period Ended 20XX12

Since the organization has been suspended from acting as a third party payee by the Social Security Administration and they have dissolved their corporate standing with the State of State they are no longer operating as an exempt organization.

Per Regulations section 1.6033-2(i)(2), in order to demonstrate that an organization should be exempt from taxation, adequate and proper records must be maintained and provided to the Internal Revenue Service . The organization failed to make available to the Service, the records necessary to demonstrate that it operates for the furtherance of some exempt activity as set forth in section 501(c)(3) of the Internal Revenue Code.

Per Internal Revenue Code section 501(c)(3), to qualify as an organization described in the aforementioned code section, the entity must be a "corporation, community chest, fund, or foundation". Since the corporate status ORG has been dissolved in the State of State, the entity does meet the basic requirements of IRC section 501(c)(3) as it is not a corporation, community chest, fund, or foundation.

Taxpayer's Position:

President, President of the organization states that they have discontinued operations. She has not responded to any other correspondence or telephone calls.

Conclusion:

The tax-exempt status of ORG under Internal Revenue Code section 501(c) (3) must be revoked effective January 1, 20XX. Thus, contributions to ORG. are no longer tax deductible. When the revocation becomes final, appropriate State officials will be notified of such action in accordance with IRC section 6104(c).